

SUMMARY OF CHANGES IN THE 2008 MANUAL

The Proposed Manual is largely a change in form rather than substance. OSE updated the Proposed Manual to reflect new or differing requirements of the 2006 Amendments to the Consolidated Procurement Code. OSE attempted to eliminate redundancies. OSE tried to eliminate verbatim recitations of the law, regulations, and contract clauses. The following is a chapter-by-chapter summary of significant changes.

Introduction: Eliminated

Chapter 1 - General

Part 1.2: Previously "Related Forms," now a statement of the Role of the Office of State Engineer.

Part 1.3: Guide to language usage in the manual eliminated. The use of plain English renders this provision unnecessary. Replaced with a statement of the Manual's purpose.

Part 1.4: Previously "Agency Responsibilities" (*See Part 1.6*), now a statement of the Manual's organization.

Part 1.5: Previously "OSE Responsibilities," now Key Definitions.

Part 1.6: Previously "Circumvention of Responsibilities," now "Agency Responsibilities."

Part 1.7: Previously "Chief Procurement Officers," now "General Procurement Information. Proposed manual divides this part into subparts: "A. Chief Procurement Officers – Authority and Delegation of Authority"; "B. Advertising of Design and Construction Procurements"; "C. Permanent Improvement Project (PIP)"; "D. Non-Permanent Improvement Project (Non-PIP)"; "E. Project Numbering"; and "F. Types of Construction Procurements". These subparts were previously Parts 1.8 through 1.13 of the Manual.

Part 1.8: Now "Unauthorized Procurements." This provision was previously in Part 1.14.

Part 1.9: Now "Relationship Between Local Officials and State Agencies." This provision was previously in Part 1.18 of the Manual.

Part 1.10: Now "Freedom of Information Act." This provision was previously in Part 1.17 of the Manual.

Part 1.11: Now "Legal Remedies for Solicitations and Awards." This provision was previously in Part 1.15 of the Manual. The revised provision provides a step by step process for filing a protest and updated to comply with the 2006 Amendments to the Consolidated Procurement Code.

Part 1.12: Now “Legal Remedies for Contract Controversies.” This provision was previously in Part 1.16 of the Manual. Revised to provide a step by step process for filing a request for resolution of a controversy and updated to comply with the 2006 Amendments to the Consolidated Procurement Code.

Chapter 2 – Minority Businesses

Part 2.2: This section of “Related Forms” was deleted and the remaining parts moved up to reflect the resulting renumbering.

Chapter 3 – Agency Certification for Construction Procurement and Certification for Code Review.

OSE divided Chapter 3 into two primary parts. Part 3.1 covers Certification for Construction Procurement and Part 3.2 covers Certification for Building Code Authority. This reflects the fact that the knowledge and skills necessary to conduct a procurement and the knowledge and skills necessary to perform a code review are unrelated. The process for obtaining certification and recertification remains largely unchanged.

Chapter 4 – Procuring Professional Services

Part 4.2 – Related OSE Forms: Deleted and replaced with a definition of Professional Services.

Part 4.3 – Restriction on Architect-Engineers and Construction Managers in Construction: This restatement of the statutory limitations on a Professional’s ability to perform both professional services and construction services is eliminated from the Proposed Manual though the requirement remains in the law. Part 4.3 now covers the procurement of professional services when total fees will not exceed \$25,000. This provision was formerly Part 4.4.

Part 4.4 – Selection of Professional Services – Fees \$25,000 or Less: This Part is now “Large Professional Services Contracts (Fees Exceeding \$25,000).” This Part now covers the Selection Committee, Committee Duties, the invitation for Professional Services, Short Listing Professionals for Interviews, Interviewing and evaluating short listed Professionals, final determination and notification of selection, negotiating professional contracts, negotiating the professional fee, fees for limited scope or single discipline projects, unsuccessful negotiations, and successful negotiation submittals. Each of these items were scattered throughout Chapter 4 in the prior Manual. The fee schedule is unchanged from the one negotiated in 2006.

Part 4.5 – Formerly “Selection of Professional Services – Fees Exceeding \$25,000”: The former provisions of this part are now incorporated into Part 4.4. This Part is now “Professional Indefinite Delivery Contracts” (*formerly found in*

Part 4.12) and directs the Agency for more detailed information on professional IDC's..

Part 4.6 – Formerly “Basic Principles for Negotiating A/E Contracts”: The former provisions of this part are now incorporated into Part 4.4. This Part is now “Procedures for Amending Professional Services Contracts” (*formerly found in Part 4.14*).

Part 4.7 – Formerly “Definition of Basic Services”: Because Basic Services are defined in the contract between the Agency and the Professional, this definition has been removed from the Manual. This Part is now “Sole Source and Emergency Selection of Professionals” and directs the Agency to resources for making a sole source or emergency procurement.

Part 4.8 – Formerly “Definition of Additional Services”: Because Additional Services are defined in the contract between the Agency and the Professional, this definition has been removed from the Manual. This Part is now “Professional Liability Insurance” and briefly addresses the requirement of Errors and Omissions Insurance.

Part 4.9 – Formerly “Project Expenses”: The former provisions of this Part are governed by the contract between the Agency and the Professional. To the extent guidance on expenses was necessary, this information is now included in Part 4.4. This Part is now “Design Professionals’ Errors and Omissions” and briefly addresses how to deal with professional errors and omissions.

Part 4.10 – Formerly “Guidelines for Determining A/E Fees”: The provisions of this part have been moved to Part 4.4 and there is no longer a Part 4.10.

Part 4.11 – Formerly “Fees for Limited Scope or Single Discipline Projects”: The provisions of this part have been moved to Part 4.4 and there is no longer a Part 4.11.

Part 4.12 – Formerly “A/E Indefinite Delivery Contracts”: This Part is now Part 4.5.

Part 4.13 – Formerly “Feasibility Studies and Master Planning Contracts”: Deleted.

Part 4.14 – Formerly “Procedures for Amending Professional Services Contracts”: This Part is now Part 4.6.

Part 4.15 – Formerly “Making Payments to the A/E”: This Part is deleted. The requirements of this Part are set forth in the A/E contract.

Part 4.16 – Formerly “Errors and Omissions in A/E Work Products”: This Part is now Parts 4.8 and 4.9.

Part 4.17 – Formerly “Sole Source, Emergency and Other Methods of Selection of Professional Services”: This Part is now Part 4.7.

Part 4.18 – Formerly “Legal and Contractual Remedies”: This Part is deleted. Contractual remedies are set forth in the A/E contract. These provisions are also set forth in Chapter 1, Parts 1.11 and 1.12 of the Manual.

Chapter 5 – Bidding Documents

OSE divided Chapter 5 into two parts, Part 5.1- Building Codes, Standards, Regulations, and Permits and Part 5.2 – Design and Construction Document Submittals to OSE.

Part 5.1 – “Statutory Authority”: Divided up between Parts 5.1.1 and 5.2.1.

Part 5.2 – “Related OSE Forms”: Deleted. The necessary forms are set forth in Appendix A.

Part 5.3 – “Permanent Improvement Project – Board Approval”: See Part 1.7 of the Revised Manual and in the Manual for Planning and Execution of State Permanent Improvement Projects – Part I.

Part 5.4 – “Project Name and Number”: See Part 1.7 and Part 5.2.3 of Revised Manual.

Part 5.5 – “Applicable Codes and Standards”: See Part 5.1.3 of the Revised Manual. Part 5.1.3 adopts the 2006 I Codes and 2005 National Electric Code effective July 1, 2008. Until that time, the 2003 I Codes are in effect. Note that the adoption of the 2006 I Codes does not include the adoption of the Appendices.

Part 5.6 – “Code Compliance Information on Drawings”: See Parts 5.2.9(A), 5.2.10(A), and 5.2.11(A) for code information to be submitted with each design document submittal.

Part 5.7 – “Certification of Drawings”: This provision required additional certifications from the Architect that the drawings comply with applicable zoning laws and erosion control requirements. In the Revised Manual, see table 5-14 for requirement to obtain erosion control permit. See Part 1.9 and Part 5.2.1(C) for zoning requirements.

Part 5.8 – “Design Related Construction Coordination, Permits and Approvals”: See Part 5.1.9 and Table 5-14 in the Revised Manual.

Part 5.9 – “Year 2000 Compliance for Construction Contracts”: This provision is obsolete and has been deleted.

Part 5.10 “Hazardous Materials”: In the revised Manual, see Part 5.1.8 – Prohibited Building Materials.

Part 5.11 – “Floodplain Development”: In the revised Manual, see Part 5.1.4 – Flood Hazard Area Development.

Part 5.12 – “Demolition Projects”: Provision deleted since provision covered in Chapter 10 of current Manual and Revised Manual.

Part 5.13 – “Fire Protection in State Buildings”: Fire sprinkler systems are covered in the I Codes adopted in Part 5.1.3 of the Revised Manual and this provision has been deleted.

Part 5.14 – “Building Communications Systems”: In the revised Manual, see Part 5.1.5.

Part 5.15 – “Information Technology Projects”: In the revised Manual, see Part 5.1.5.

Part 5.16 – “Modular Buildings”: In the revised Manual, see Part 5.1.7.

Part 5.17 - “Alternates to the Base Bid”: In the revised Manual, see Part 5.2.6. Part 5.17 provides for award to the responsive and responsible bidder providing the lowest bid for the base bid plus all add alternates. Deduct alternates are not permitted. There is some question as to whether this approach complies with the Procurement Code’s requirement that award be made to the lowest responsive and responsible bidder for the work awarded. Part 5.2.6 in the revised Manual prefers the use of alternative base bids but also allows bid alternates with OSE approval.